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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,118	02/04/2004	Paul V. Cooper	23438.00043	3988

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EXAMINER

KASTLER, SCOTT R

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

07/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/773,118

Applicant(s)

COOPER, PAUL V.

Examiner

Scott Kastler

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-13 and 15-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 and 19-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 9, 11-13 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/1/2009 has been entered.

Election/Restrictions

Claims 1-7 and 19-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/20/2007.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8, 9, 1-13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,330,328 to Cooper (Cooper'328). Cooper'328 teaches at col. 7 lines 3-18 and figures 1 and 15 for example, a molten metal pump (10) including a superstructure (262) where support posts (24)

of substantially equal height (see fig. 1 for example) support the superstructure and where the support posts comprise a first portion with a narrower first width which extends through an opening in the superstructure and is secured thereto by means of a clamp and throughbolt system (30) in fig. 1 as well as the embodiment of fig. 15 for example) and a second portion with a wider width and stepped section (meeting the requirement of a top surface) which is situated below and in contact with the superstructure, thereby at least partially supporting the superstructure on a top surface of the second portion, thereby showing all aspects of the above claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper'328. As applied to claim 8 above, Cooper'328 shows all aspects of the above claims except the provision that the throughbolt hole have a diameter of greater than 1/32" more than the throughbolt. However, with respect to the throughbolt hole size, since the throughbolt system of Cooper'328 and that of the above claims operate in substantially the same manner with substantially the same results, motivation to employ any equally useful throughbolt hole diameter, as long as it is large enough to receive the throughbolt, as also required by Cooper'328 would have been a modification obvious to one of ordinary skill in the art at the time the

invention was made. Since it has been well settled that motivation to alter the size or shape of a component (the throughbolt hole) shown by the prior art without materially altering the operation of the component or apparatus, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 IV A and B.

Response to Arguments

Applicant's arguments, see the response and RCE, filed 7/1/2009, with respect to the rejection(s) of claim(s) 8, 9, 11-13 and 15-18 under 35 USC 102 and 103 over Lehman'286 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Cooper'328. It is noted by the Examiner that Cooper'328 had previously been applied and then withdrawn due to applicant's amendments changing the scope of the claims to recite that the support posts support the superstructure with a top surface of the post (see the amendment filed on 10/31/2008). However, the amendment filed on 3/16/2009 again altered the scope of the claims so that the support posts do not now support the superstructure by a general top surface, but rather at least partially (which is met by any contact) by a top surface of a second, lower portion of the posts, which is exactly how Cooper'328 supports the superstructure (262).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott Kastler/
Primary Examiner, Art Unit 1793

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